

IC 34-55-7

Chapter 7. Liability of Sheriff to Pay Money Collected on Execution

IC 34-55-7-1

Time of paying over money

Sec. 1. When the sheriff has collected any money on execution, the sheriff shall pay over the money at the earliest opportunity, unless enjoined.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-2

Neglect or refusal of sheriff to levy or sell; liability

Sec. 2. If a sheriff neglects or refuses to levy upon or sell any property justly liable to execution when the levy or sale might have been done, the sheriff is liable for the value of the property, not to exceed the amount necessary to satisfy the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-3

Neglect or refusal of sheriff to return execution; liability

Sec. 3. If a sheriff neglects or refuses to return any execution as required by law, or makes a false return on the execution, the sheriff is liable for the amount the sheriff might and should have levied by virtue of the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-4

Neglect or refusal of sheriff to pay over money collected on execution; liability

Sec. 4. If a sheriff neglects or refuses on demand to pay over any money collected on execution to the execution creditor, the execution creditor's agent or attorney, or the execution debtor when entitled, the sheriff is liable for the amount withheld.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-5

Additional damages

Sec. 5. In all cases described in sections 2, 3, and 4 of this chapter, the plaintiff shall, in addition to the amount of liability, recover from the sheriff:

(1) legal interest; and

(2) damages not exceeding ten percent (10%) on the principal sum recovered.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-6

Actions against sheriff; procedure

Sec. 6. (a) Recovery under section 5 of this chapter may be made by:

(1) motion against the officer in the proper court upon ten (10) days notice; or

(2) action on the bond of the sheriff.

(b) The proceedings in this section may be commenced immediately upon the default of the sheriff, either before or after the return day of the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-7

Return of execution

Sec. 7. (a) Every execution shall be returned immediately upon being satisfied by the collection of the money or upon order of the plaintiff or the plaintiff's agent endorsed on the execution.

(b) When the return day of an execution falls on Sunday, the execution shall be returned on the following Monday.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-8

Failure to give notice of sale to defendant; plaintiff required to submit refunding bond

Sec. 8. If:

(1) the sheriff sells the property of a nonresident or other person upon an execution issued on a judgment recovered against the person in a case where publication has been provided; and

(2) no personal notice of the pendency of the action was given to the defendant;

the plaintiff may not receive any of the proceeds of the sale until the plaintiff has filed in the clerk's office a written undertaking, with surety, to be approved by the clerk, to the effect that the plaintiff will refund the money about to be received by the plaintiff, or so much of the money as is necessary, if the judgment is afterwards annulled or set aside and the defendant shows that the plaintiff's claim is unfounded in whole or in part. However, surety to refund is not required in cases of attachment.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-9

Death of defendant; effect

Sec. 9. The death of a defendant, after the execution is placed in the hands of the sheriff to be executed, does not affect the sheriff's proceedings, except that the amount of property allowed absolutely to the surviving spouse of the decedent is exempt from levy and sale under the execution.

As added by P.L.1-1998, SEC.51.